IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.723 OF 2003

The State of Maharashtra. .. **Appellant.**

v/s.

Namdeo Gabaji Pavshe. .. **Respondent.**

Shri A.M.Shringarpure, APP for State.

Ms.Prachi Tatake, h/f Mrs. P.P.Kakade, advocate for respondent.

CORAM: V.M.KANADE, J.

DATE : 25TH NOVEMBER, 2004,

P.C. :-

. Heard the learned APP for the State and Ms. Prachi Tatake, advocate appearing for the respondent. The State has filed an appeal challenging the Judgment and Order passed by the V AD-HOC Additional Sessions Judge, Pune in Sessions Case No.15 of 2002. By the said Judgment and order dated 7/1/2003, V AD-HOC Additional Sessions Judge has acquitted the respondent accused of the offence punishable under section 3(1)(x) of the Schedule Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 323 of the Indian

Penal Code. The prosecution case is that the accused slapped the complainant and abused him in the name of his caste. The date of the incident in question is 2/4/2002. Complaint however is lodged on 11/4/2004. Thus there is delay of 9 days in filing the complaint. Prosecution has not given any explanation while explaining delay caused in filing the case. Apart from this, the respondent accused addressed the complainant as "mahardya". The first question which falls for consideration as to whether uttering of the said words amounts to an offence under section 3(1)(x) of the Atrocities Act. This Court in number of cases has held that mere utterance of the caste of the complainant by itself does not amount to an offence under the Atrocities Act. The Trial Court has given cogent reasons while coming to the conclusion that the prosecution has not proved beyond reasonable doubt that the accused has committed offence. I do not find any reason to interfere in the said order passed by the Trial Court. Leave is refused. Appeal is dismissed.

sd/-